THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16925 OF 2006

DATED 1st SEPTEMBER, 2006

BETWEEN

B.Yadagiri Reddy

… Petitioner

and

The Joint Collector-II, Ranga Reddy District at Hyderabad and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16925 OF 2006

ORDER:

The petitioner assails the order of the first respondent, dated 17.06.2006, whereby and whereunder the revision petition filed by the petitioner under Section 9 of A.P.Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity) was disposed of. The first respondent affirmed the order of the second respondent passed under Section 5-B of the Act.

The brief fact of the matter is as follows. The petitioner claims to be adopted son of late Ranga Reddy. He was allegedly owner of land

admeasuring Acs.21.00 in survey No.135 of Gummadavalli village. The petitioner allegedly succeeded to the said property after death of his adoptive father and obtained succession from the Mandal Revenue Officer (MRO), Kandukur Mandal in Ranga Reddy District, vide proceedings, dated 29.04.2000. Respondents 10 and 11 herein filed an appeal before the Revenue Divisional Officer (RDO), Ranga Reddy East Division, under Section 5(5) of the Act. At that stage, having come to know that MRO issued orders under Section 5-A of the Act regularising the sale in favour of one G.Shyamalamma, the petitioner also filed appeal before the RDO under Section 5-B of the Act against the order of MRO on 05.07.1995 under Section 5-A of the Act, alleging that his father never sold the land to Shyamalamma. He also alleged that record pertains to the proceedings bearing No.A2/2108/90, dated 05.07.1995, in favour of late Shyamalamma, was not available in the Office of MRO as informed to him. He also alleged that challan numbers 116 and 117, dated 18.01.1995, under which, Shyamalamma allegedly paid registration fees under Section 5-A of the Act to the MRO was in fact paid by one Manmadha Reddy and therefore, the claim of Shyamalamma is bogus and not sustainable.

The RDO considered both the appeals – one filed by respondents 10 and 11 under Section 5(5) of the Act against the grant of succession to the petitioner and the appeal filed by the petitioner under Section 5-B against proceedings of the MRO, dated 05.07.1995. By order, dated 30.03.2002, the RDO disposed of the appeals observing that MRO granted succession to the petitioner without verifying the validation certificate, pattadar pass book and title deed issued to late Shyamalamma and that the MRO should verify the records once again about the remittance of stamp duty and registration fee collected from Shyamalamma and remitted to Government Treasury. Feeling aggrieved by the order of the appellate authority, the petitioner invoked the revisional jurisdiction of the first respondent unsuccessfully.

The learned counsel for the petitioner strenuously contends that the first respondent failed to appreciate the factual matrix available on record and that the impugned order is vitiated by misdirection in law. In substantiation of this submission, he has taken this Court through the order of the RDO and Joint Collector besides placing reliance on xerox copies of credit certificates, dated 14.09.2000 allegedly issued by Sub-Treasury Officer, Maheswaram Mandal in Ranga Reddy District, which would show that the amount of stamp duty and registration for the purpose of Section 5-A of the Act was paid by one Manmadha Reddy and not by late Shyamalamma. **Opposing** the writ petition, learned Assistant Government Pleader for Revenue (General)

submits that the RDO as well as Joint Collector considered questions of facts based on record and that the revisional authority rightly did not interfere with the order of the RDO, who sent it back to MRO for verification of the record.

The principle of 'misdirection in law' is a subsidiary rule of doctrine of illegality. The basic tenets of illegality is that the decision maker should appreciate and analyse the facts and relevant law in a sound manner and then apply the correct principles of law – both statute law and precedent law; to the facts so analysed and assessed. If any errors are committed in doing so, the judicial review would lie when it is shown that the decision maker failed to understand correctly the law that regulates his decision making power and giving effect to it. Mere incorrect inference from a set of facts and correct application of law to such facts, by itself does not amount to misdirection. In this case, the RDO correctly considered the submission made by the petitioner that while paying the requisite fees towards stamp duty and registration at the stage of enquiry under Section 5-A of the Act for the purpose of validation of the sale, there was some discrepancy and therefore, it requires verification of MRO. A reading of the provision under Section 5-A of the Act would show that a person who is in occupation of the land pursuant to a transaction can seek validation of such transaction on payment of the requisite stamp duty and registration fees as assessed by the competent authority. The petitioner challenged validation certificate, dated 05.07.1995, issued by the MRO in favour of late Shyamalamma, the predecessor in title of respondents 5 to 9, after lapse of about eleven years. In such a background, it can never be misdirection in law for the higher authorities to direct the MRO, the primary authority, again to verify the particulars of payment by challan. Other questions raised by the petitioner, at this stage, need not be considered. Equally, whether non-payment of stamp duty and registration at the time of grant of validation certificate under Section 5-A of the Act is a curable defect, which can be rectified later, is a larger question, which cannot be gone into at this stage. After giving anxious consideration to the background of the case and submissions made by the learned counsel, this Court holds that the RDO and then the Joint Collector were justified in sending back the matter to MRO to decide the controversy raised by the petitioner as well as respondents 10 and 11 regarding succession granted to the petitioner.

The writ petition, with the above reasons, is accordingly dismissed. No costs.

(V.V.S.RAO,J)

.09.2006

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